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A _____
S. J.

THE FLOATING DISTRICT

A THESIS

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THE FLOATING DISTRICT

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SUMMARY

The increased use of large scale or group developments and the difficulty of determining in advance where these developments will be desired have created a need for a new zoning technique known as the "floating district."

The floating district, sometimes called the "floating zone," is defined as a district classification provided in the text of the zoning ordinance and established on the accompanying zoning map by re-zoning, when needed, in response to a petition for amending the map.

The purpose of this study was to examine and analyze floating district provisions in zoning practice today; to determine the legality of such provisions; and to make recommendations for drafting legal and useful floating district provisions.

Floating districts were found in 40 zoning ordinances in 18 states. They provide for the establishment of a variety of land uses ranging from residential to industrial. Their provisions regulate the location and the size of floating districts, land uses permitted and site plans. They specify the period of time within which the contemplated development must be initiated and completed.

Floating district provisions have been contested in at least four State Supreme Courts. The Pennsylvania Supreme Court has invalidated an industrial floating district. The Connecticut Supreme Court initially invalidated a shopping center floating district but, in a subsequent decision, upheld the identical district. Floating districts

for garden apartments in Connecticut and New York and trailer parks in Maryland have been held valid. An evaluation of these court cases indicates that floating district provisions can be legally drafted and adopted.

In conclusion, this study recommends steps to be taken in advance of drafting floating district provisions; and sets forth guidelines for their drafting.

CHAPTER I

INTRODUCTION

Zoning was adopted initially to control the development of individual lots. However, with the increased use of large scale or group developments, and the uncertainty as to where these developments should be located and how they should be designed and erected, a need for new zoning techniques was created. A technique designed to meet this need may be found in the "floating district."

The Floating District Defined

For the purpose of this study, the floating district, often referred to as the "floating zone," is defined as a district classification provided in the text of the zoning ordinance and established on the accompanying zoning map by rezoning when needed, in response to a petition for amending the map. Unlike "fixed" zoning districts (provided in the text of the zoning ordinance and on the accompanying zoning map in one legislative step), the floating district involves two legislative steps.

Step one is defining the floating district in the text of the zoning ordinance. This description of the district usually includes: (1) designated land uses permitted in the district; (2) location and area requirements; (3) design and development standards (height, setbacks, buffers, parking, traffic circulation, etc.); and (4) procedures

through which the district will be mapped and may later be rezoned to its original land use classification (if development does not take place within a specified time).

Step two is the mapping of the floating district. At the request of the petitioner and upon a report by the planning body that the proposed development meets all the specified requirements, the governing body amends the zoning map, establishing the new zoning district.

The Purpose of the Floating District

The floating district is designed to allow the establishment of certain group developments in areas or districts in which they are ordinarily prohibited, and to minimize any detrimental effects of these developments on existing land uses.

The objectives of the floating district provision are accomplished through requirements, restrictions and controls set forth in the provision itself. These controls give the legislative body the authority to determine the location and to some extent the layout of the developments that take place in the floating district.

Objectives and Methods of Analysis

The objectives of this study were to examine and analyze floating district provisions in zoning practice today, to determine the legality and the validity of the provisions, and to recommend how they may be used effectively in the future. This will be accomplished by examining and analyzing:

- (1) floating district provisions found in a random survey of 400 current zoning ordinances (1950-1963) from the 50 states,
- (2) court cases involving the floating district, and
- (3) available literature on the floating district.

Content of the Thesis

Chapter II presents information on the extent of use of floating district provisions in zoning practice today. It discusses the various land use classifications of floating district provisions and analyzes and evaluates the content of these provisions.

Chapter III is devoted to a discussion of the legality of the floating district. This discussion is centered around a presentation of the court cases involving floating district provisions.

Chapter IV sets forth guidelines for drafting and adopting effective floating district provisions.

CHAPTER II

FLOATING DISTRICT PROVISIONS IN ZONING PRACTICE TODAY

The purpose of this chapter is to discuss, analyze, illustrate and evaluate floating district provisions in zoning practice today. To do this, a random survey of 400 current zoning ordinances (1950-1963) from the 50 states was conducted to determine:

- (1) the extent and the distribution of floating district provisions, and
- (2) the content of floating district provisions.

The Extent and Distribution of Floating District Provisions

From the ordinance survey, 40 zoning ordinances were found to contain 78 floating district provisions. These ordinances and their provisions were found in 18 states.*

The communities in which these 40 ordinances were found ranged in size from metropolitan cities to villages and townships. No correlation between the size of these communities and the use of floating district provisions was discernible.

The Content of Floating District Provisions

One of the earliest floating district provisions, antedating

* For detailed information see Appendix A.

the ordinances surveyed, was contained in the Sheboygan, Wisconsin, zoning ordinance of 1928. It had three short provisions: one for establishing the district, another designating and regulating the land uses permitted in the district, and the third for controlling building height, area and setback (1).

Since the adoption of the Sheboygan zoning ordinance, the content of floating district provisions has changed considerably. Provisions governing land use and the construction of these land uses have been modified and expanded. Location and size provisions have been added. Buffer and market analysis requirements have been adopted; and provisions for securing the development of the district (as proposed), once it has been established on the zoning map, have become essential floating district provisions.

The modifications that have taken place over the past 35 years are the result of efforts to reduce any adverse effects on existing land uses of the establishment of a floating district. Correspondence with planning directors and legislative officials from the 40 communities with floating district provisions reveals that these changes have served the purpose for which they were designed. The floating district is basically compatible with existing land uses under the restrictions set forth in the ordinance.

The content of floating district provisions, as used in zoning practice today, may logically be divided into six functional categories. They include: (1) land use; (2) location; (3) size; (4) design (buffer, height, setback, bulk, parking, etc.); (5) construction

(schedule, contract and reversion); and (6) procedure.

Land Use Provisions

Floating district provisions are associated by many almost solely with planned neighborhood shopping centers. However, the zoning ordinance survey conducted for this study discloses that the planned neighborhood shopping center is but one of the many land uses permitted in floating districts.

Land use provisions contained in the various floating districts may be grouped into two basic classifications: designated and undesignated land uses. Designated land use provisions specify the land use or land uses permitted in the floating district, while undesignated land use provisions do not specify a particular land use or combination of land uses. Instead, the eventual land use permitted in undesignated floating districts is decided by the petitioner and the legislative body at the time the district is petitioned for mapping.

From the ordinance survey, a variety of designated and undesignated land use provisions were found. They include the following:

<u>Land Use Provisions</u>	<u>Number Found</u>
Designated	
Neighborhood Shopping Center	26
Community Shopping Center	5
Regional Shopping Center	<u>4</u>
TOTAL (Shopping Center Land Use)	35

<u>Land Use Provisions</u> (Continued)	<u>Number Found</u>
Industrial	10
Residential	8
Residential and Commercial	4
Thoroughfare Commercial	3
Commercial and Light Industrial	2
Administrative, Professional and Research	2
Apartment and Office	1
Medical	1
Parking	1
Wholesale and Commercial	<u>1</u>
TOTAL (All Other Designated Land Uses)	33
Undesignated	<u>10</u>
GRAND TOTAL	<u>78</u>

An analysis of the various land use provisions reveals an emphasis on land use flexibility in the undesignated land use provisions and an emphasis on land use stability in the designated land use provisions. In the opinion of the author, increased land use stability outweighs the advantages of land use flexibility.

Location Provisions

The inherent uncertainty of the location within the city of floating districts is the cause of widespread criticism by professional planners, property owners and the courts alike.

Problems created by the uncertainty of the location of floating districts is not entirely unfounded. Theoretically, a floating district may be located contiguous to any piece of property or parcel of land, present zoning notwithstanding, unless the ordinance sets forth provisions governing the location of the district.

Provisions restricting the location of floating districts to designated areas or zoning districts were missing from 38 of the 78 floating district provisions examined for this thesis.

However, 40 of the 78 floating district provisions had restrictions governing the location. These provisions were designed to insure maximum security against the establishment of a floating district contiguous to the property of as many property owners as possible.

Floating districts were permitted in three areas: (1) along major thoroughfares, (2) in designated areas—specified on the zoning map or the master plan or in the text of the zoning ordinance, and (3) in designated zoning districts.

The requirement of a satisfactory market analysis was a supplementary requirement in determining the permitted location of floating shopping center districts in some zoning ordinances.

Major Thoroughfares. Floating districts are limited to areas with major thoroughfare frontage, access or proximity in 18 of the 40 floating districts with location requirements. These 18 provisions, however, varied considerably in the precise location of the floating district with respect to major thoroughfares. For example, the Tacoma, Washington, zoning ordinance provides that a freeway commercial district

"may be established only upon land fronting on a state or city owned frontage road . . . , abutting a state of Washington limited access road."(2)

Kansas City, Missouri, on the other hand, requires that the location of any planned business district "shall be on property which has direct access to major thoroughfares."(3)* The Hollister, California, zoning ordinance requires only that a shopping center district be in the vicinity of a major thoroughfare (4).

Obviously, provisions as vague as those set forth in the Hollister zoning ordinance do little more than establish very general guides, to be used by the legislative body, for locating a floating district. They offer little assurance, if any, to the property owner, that the district will not be located contiguous to his property—even if adjacent property does not have direct access to a major thoroughfare.

Designated Areas. Three techniques for restricting the location of floating districts to designated areas within the zoned community were found. One involves delimiting on the Zoning Map the areas within which a floating district may be established. The second involves delimiting on the Master Plan the areas in which a floating district may be located. The third involves setting forth in the text of the zoning ordinance the areas within which a floating district may

* The underlining in these two quotations is that of the author of this thesis.

CENTER TOWNSHIP HOWARD COUNTY, INDIANA ZONE MAP

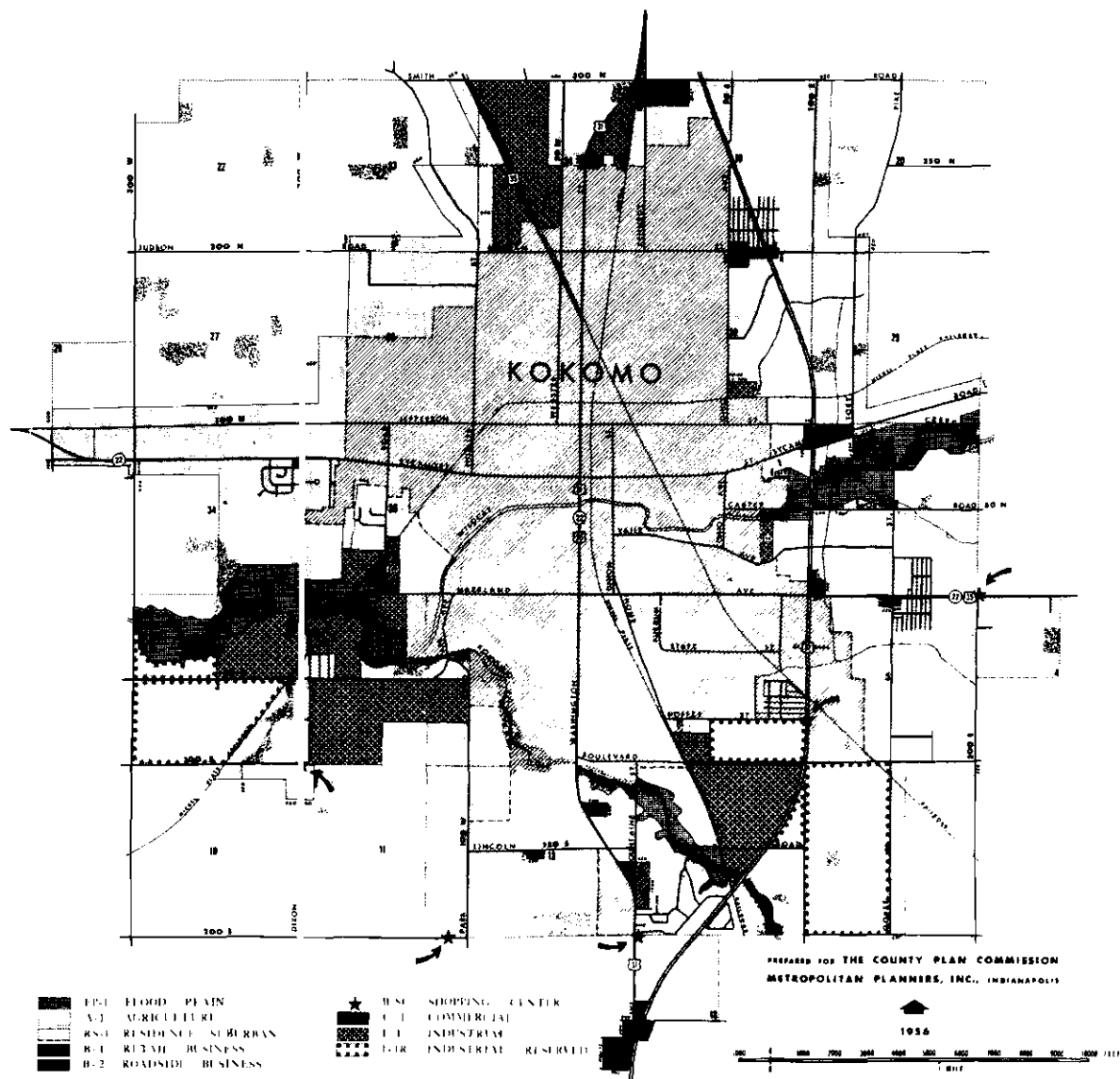


Figure 1. Zoning Map Using Stars Within 1320 Feet of Which the Floating District (Shopping Center) May Be Located

be located.

The location technique involving the use of the zoning map was found in two floating district provisions, both of which are contained in Indiana zoning ordinances: those for Howard and Vanderburgh counties. These county zoning ordinances provide for the location of planned shopping centers.

The Howard County zoning ordinance provides for the establishment of the floating district "on a tract of land . . . which lies wholly or in part within 1,320 feet of a symbol [a star] representing a Shopping Center Zone on the Zone Map." (5) (See Figure No. 1).

Vanderburgh County, on the other hand, delimits the areas within which the floating district may be located with the use of circles (6). Two such areas are presently outlined on the Vanderburgh County zoning map (see Figure No. 2).

These techniques have been described by Philip P. Green, Jr., as "floating zones with dragging anchors." (7) These methods have been successful. Both counties have reported satisfactory experience.

To avoid the charge of "spot zoning not in accordance with a comprehensive plan," four communities (Monterey Park and Monte Vista, California; Wolcott, Connecticut; and Tulsa, Oklahoma) with five floating district provisions designate on the Master Plan the areas within which floating districts may be located. This technique, of course, brings into play the Land Use Plan as a guide in locating such districts.

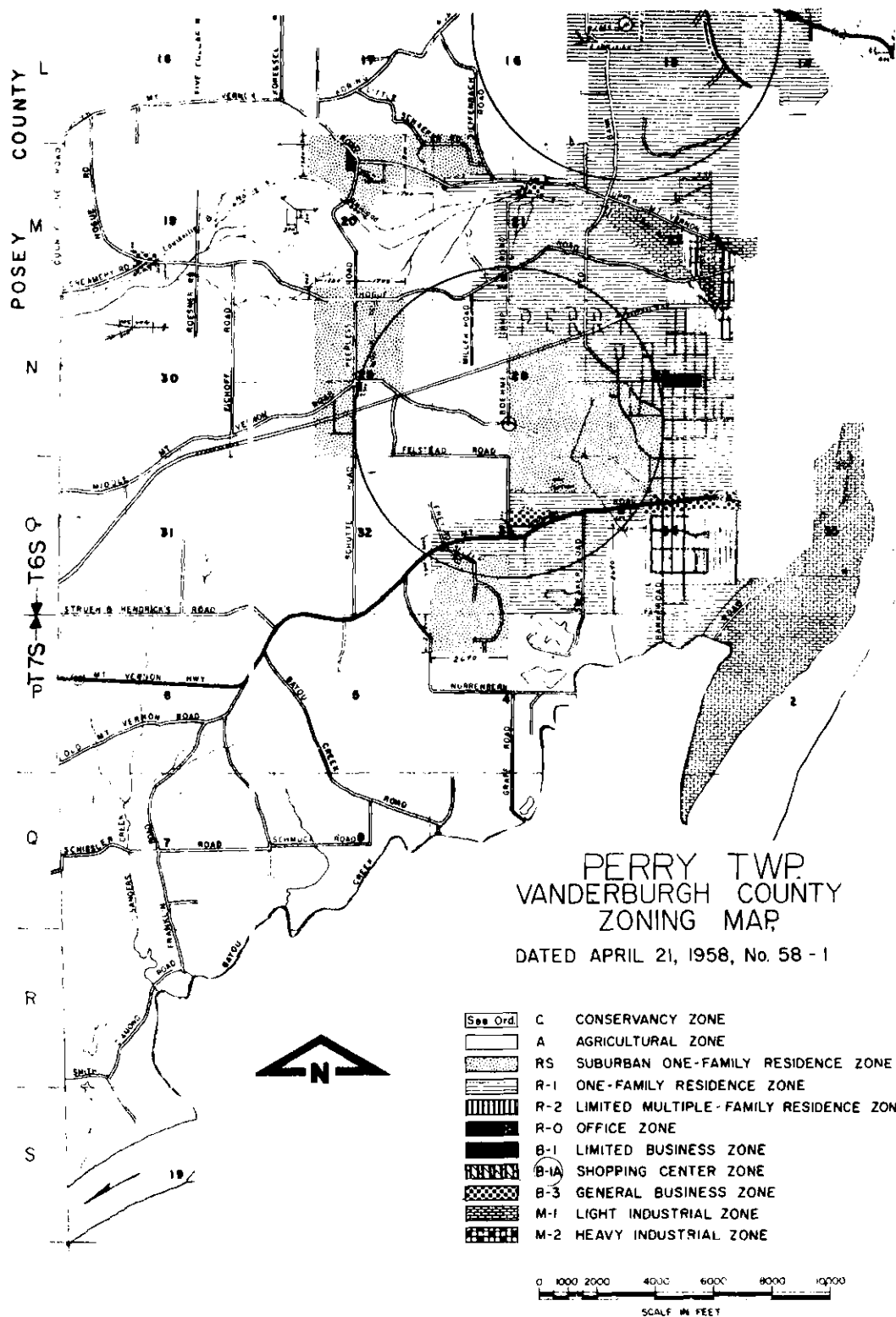


Figure 2. Zoning Map Using Circles to Indicate Areas Within Which The Floating District (Shopping Center) May Be Located

An example of this provision is well illustrated in the Wolcott, Connecticut, ordinance.

Subject to the provisions of this section the Planning and Zoning Commission may establish a Commercial Expansion District [floating district] in an area designated on the Pilot Plan of Development [Master Plan] to be devoted to commercial uses.(8)

The text of the ordinance was used to set forth areas in which floating districts may be located in four floating district provisions. This technique, which is less restrictive than the previous two, appears to the author to be of little practical value in restricting the location of a floating district. For example, the Lodi, California, zoning ordinance provides that the floating district may be located in areas outside the Central Business District (9). The Tulsa, Oklahoma, zoning ordinance and the Columbia, South Carolina, zoning ordinance provide for the location of floating districts in all but the most restricted residential areas (10) and in areas not presently zoned for commercial use (11), respectively. The Ann Arbor, Michigan, zoning ordinance provides for the establishment of the floating district on the periphery of residential areas abutting commercial and industrial areas.

Of the three techniques for restricting the location of floating districts to designated areas, the use of the Master Plan is probably the best method. Locations shown on the Master Plan carry the assumption that the need and the impact of the district have been studied and analyzed and that the areas designated for these districts are in the best interest of and consistent with the overall development of the community.

Designated Zoning Districts. The third technique used for restricting the location of floating districts designates certain zoning districts within which floating districts may be established. For example, the floating district provision in the Miami, Florida, zoning ordinance provides that a "Low Density Planned Development" residential district may be established only in certain other designated residential districts. Specifically, the Miami ordinance provides that:

. . . the Low Density Planned Development District is intended for those locations in Low Density R-1, R-1A, R-B and R-2 Residential Districts where there is a need for allowing flexibility as to the design and arrangement of buildings and structures and a need to regulate access and circulation. . . . (12)

The use of designated land use districts for restricting the location of floating districts was found in eight floating district provisions. One provision restricts the location of neighborhood shopping center districts; seven provisions are designed to control the location of residential districts.

The seven residential floating district provisions consist of a majority of the residential floating district provisions (seven of eight) found in the ordinance survey conducted for this study, which indicates that this is the preferred method for restricting the location of residential floating districts.

Market Analysis. Eight floating shopping center districts require a market analysis as a supplementary location determinant. For example, the Riverside, California, zoning ordinance requires that:

The location of the Neighborhood Shopping Center Zones shall be determined by studies of the purchasing power available to support the uses permitted in the zone. Such zones shall not, however, be closer than one mile from any existing Neighborhood Shopping Center or Community Shopping Center Zone. (13)

The requirement of a market analysis is designed to show the market area and potential of the proposed shopping center. This, of course, enables the legislative body to consider the economics of the proposed shopping center to determine if the proposed site may logically be expected to support a shopping center.

Floating District Size Provisions

The purpose of floating district minimum and maximum size requirements is twofold: first, to eliminate the creation of "spot zones"; and second, to provide an area of adequate size for the land uses permitted in the floating district.

District size provisions were missing from the 1928 Wisconsin zoning ordinance. However, since the adoption of this early ordinance, minimum and maximum area requirements have been included in many floating district provisions. Forty-nine of the 78 floating district provisions contained minimum area requirements.* Six contained maximum area requirements.*

The majority of the district size requirements were found in floating district provisions with designated land uses (46 of 68) as compared with those with undesignated land uses (3 of 10).*

District size requirements ranged from 10,000 square feet to 40

* For detailed information see Appendix A.

acres minimum, and 5 acres to 50 acres maximum. However, the majority of these requirements (80 per cent) were grouped between 1 and 10 acres.*

Design Provisions

The purpose of design provisions is to set forth controls governing the development of the land uses permitted in the floating district. Basically, these provisions are intended to protect surrounding property owners from any adverse effects of a floating district; to insure a complete and functional development; and to determine the effects of increased traffic on surrounding streets and highways.

Design provisions were found in all but one floating district provision; 11 other provisions were found to contain only height, building bulk and yard requirements. However, the majority of these provisions (66) were found to contain site plan requirements. These site plan requirements and the extent to which they are used are as follows:

<u>Design Provisions:</u>	<u>Site Plan Requirements</u>	<u>Number Found</u>
Buffer		56
Location of Buildings		42
Parking		41
Traffic Circulation		36
Height of Buildings		30
Drainage		29
Sewerage Connections		25
Existing Topographic Data		21
Open Space		21

* For detailed information see Appendix A.

<u>Design Provisions:</u> <u>Site Plan Requirements (Continued)</u>	<u>Number</u> <u>Found</u>
Water Connections	19
Yard Requirements	18
Lighting	15
Grading	15
Walkways	12
Any Additional Requirements Deemed Necessary by the Legislative Body	10
Building Bulk Requirements	8
Walkways	8
Garbage Disposal	3

Of the various design requirements for securing land use compatibility, buffer provisions were found to be the most prevalent. These provisions, which are uncommon to the "fixed" zoning district provision, insulate surrounding property from the floating district, thereby reducing the adverse effects of the district.

Twenty ordinances containing 56 buffer provisions were found in the ordinance survey. These provisions and the extent to which they are used in these ordinances are tabulated as follows:

<u>Buffer Requirements:</u>	<u>Number Found</u>			
	<u>Shopping</u> <u>Center</u>	<u>Industrial</u>	<u>Residential</u>	<u>All</u> <u>Other</u>
General—Location and Character of Buffer Planting to be De- termined by Governing Body	5	1	2	4
Three and One-Half Foot Buffer Strip—25-Foot Setback	6			3
Four Foot Hedge and Five Foot Buffer Strip	1			
Four and One-Half Foot Masonry Wall and 10-Foot Screening	5			

<u>Buffer Requirements</u> (Cont.)	<u>Number Found</u>			<u>All Other</u>
	<u>Shopping Center</u>	<u>Industrial</u>	<u>Residential</u>	
Five Foot Masonry Wall and 10-Foot Buffer Strip	3	1		3
Six Foot Masonry Wall and 50-Foot Buffer Strip	3			3
Twenty-Five Foot Greenbelt	1	1		
Thirty-Foot Greenbelt	5	2		1
One Hundred Foot Buffer Strip	1	3		
One Hundred Twenty-Five Foot Buffer Strip		1		1
TOTAL	30	9	2	15

From the Buffer Requirement Table, three points are noteworthy.

They are:

- (1) The majority of the 56 buffer provisions (30) were used to insulate surrounding property from a floating shopping center.
- (2) Nine industrial floating districts were found to have generally higher buffer requirements.
- (3) Only two residential floating districts were found to contain buffer provisions, both of which had undetermined size requirements.

In conclusion, it should be pointed out that the extent to which design provisions are employed varies considerably; however, no problems with the provisions per se were reported by any of the communities

containing such provisions. One community did, however, point out the need for strict enforcement of maintenance requirements if these provisions (particularly landscaping and buffer provisions) are to reflect the spirit of the ordinance after the district is established.

Construction Provisions

Construction provisions are designed to insure the development of the floating district once it has been established on the zoning map. Specifically, these provisions include:

- (1) Scheduling the development of the floating district;
- (2) Contracting with the petitioner to insure the construction of streets and other public utilities in the district; and
- (3) Reverting or rezoning the district back to its original zoning classification if the developer fails to adhere to the schedule or the contractual agreements.

Schedule Requirements. The purpose of schedule requirements is twofold: first, to insure the construction of the district when it is needed; and second, to prevent the use of the floating district for speculative purposes.

Only 33 of the 78 floating district provisions contain schedule requirements. These 33 provisions set forth required time periods, which ranged from six months to five years, within which construction of the proposed project must commence. Only eight of these provisions, however, established time periods within which the proposed project must be completed (construction periods ranged from 18 months to 6

years). Such provisions for the completion of construction are equally as important as those for the commencement of construction.

Both commencement and completion requirements are illustrated in the Broken Arrow, Oklahoma, zoning ordinance. This ordinance provides that:

A building permit must be secured and construction begun in accordance with the approved final site development . . . within one (1) year from the effective date of the ordinance establishing such district. Application may be made to the Planning Commission for not more than a one (1) year extension of the time limit for commencement of construction.

Construction begun in accordance with the approved final site development plan . . . must be completed within three (3) years of the date construction is commenced. Application may be made to the Planning Commission for not more than a one (1) year extension of the time limit for completion of construction. (14)

Contractual Agreements. Contractual agreements between the petitioner and the community are designed to insure the construction by the petitioner of streets and public utilities in a floating district once it has been established on the zoning map. The approval of a floating district is linked to or dependent on the contractual agreement between the petitioner and the city. Employed in five of the 78 floating district provisions studied for this investigation, contractual provisions require the petitioner to show financial evidence, or pledge financial surety that the development will be constructed as provided in the development plan.

A typical contractual provision is found in the Tacoma, Washington, zoning ordinance. It provides that:

No building permit shall be issued for any structure in a Shopping Center District . . . until the developer and the

City have entered into a contractual agreement . . . concerning the rededication of such vacated streets and/or alleys, the replatting of property in the event the proposed shopping center is not constructed, and the proposed traffic control construction, and further said agreement may contain a provision requiring the developer to post a good and sufficient bond running to the City of Tacoma with two or more sureties or with a surety company licensed to do business in the State of Washington as security in an amount equal to the estimated cost of street and utility development in the project conditioned that the developer shall faithfully perform all the provisions of said contract. . . . Said agreement shall further provide that if the developer fails to secure the necessary financing and to proceed with the construction within the time provided . . . , that such developer shall forthwith initiate proceedings to have the area reclassified. . . . (15)

The use of contractual agreements was reported as satisfactory by Tacoma and the four other communities employing such requirements. However, the validity of these provisions, as a means for securing construction by linking the rezoning of the district with a financial pledge, is questionable. "The courts of at least six states have, in fact, held 'contract zoning' to be illegal under existing enabling legislation." (16) However, such contractual conditions may be required legally through subdivision regulations.

Reversion Provisions. Reversion provisions may be considered as the proverbial 'ace in the hole.' They call attention to the fact that the legislative body may restore the original zone classification if the project is not constructed as proposed. The effectiveness of this provision lies in the time limits set forth for the commencement and the completion of construction, and the enforcement of the provision.

Obviously then, a provision without a construction time period,

or one with an unusually long time period (in excess of five years) will be of little value if the proposed development is to be constructed when needed (at the time it is established on the zoning map). A short but reasonable time period is necessary. An example is the provision set forth in the Riverside, California, zoning ordinance:

In the event that construction is not started within the specified time limits (within two years from the effective date of the ordinance—completed within three years of the date construction is commenced), the planning commission shall review the zoning and the progress which has taken place and, if deemed necessary, initiate proceedings to re-classify the property in a manner consistent with the comprehensive zoning plan. (17)

Conclusion. The experience of the communities with construction provisions was reported as satisfactory, with two exceptions. Lodi, California, and Kansas City, Missouri, both of which require the commencement of construction within one year after the district is approved, reported the failure of some petitioners to begin construction as required. This, of course, is indicative of inadequate enforcement of the provisions and cannot be contributed to a deficiency in the provisions themselves.

On the other hand, the failure of some petitioners to begin construction after the district had been established on the zoning map was attributed to the absence of construction provisions. Specifically, three communities that so attributed such failures are Monterey and Sunnyvale, California, and Shelby County, Tennessee.

Procedural Provisions

Procedural requirements to be followed when establishing a floating district were found in 53 of the 78 ordinance provisions

analyzed. The majority of these provisions (47) set forth procedures supplementary to those contained in the Amendment section of the zoning ordinance for securing the establishment of a floating district. An example of such provisions is set forth in the New Hartford, Connecticut, zoning ordinance:

A petition for a Planned Business District, whether or not in a location designated on the Zoning Map shall be submitted to the Commission by the owner of the land involved, or by the holder of an option to purchase such land.

The petition shall be accompanied by two or more copies of a complete development plan, showing existing boundaries, topography and proposed grading, existing and proposed drainage, existing and proposed lighting; extent, location and type of proposed structures; and uses and open spaces.

Notice of public hearing of the petition shall be given as provided in the zoning law of the state.

After a public hearing the Commission may approve, disapprove or approve with modifications the establishment of the zone.
(18)

Six of the floating district provisions, however, require only that the petitioner adhere to the procedural requirements contained in the Amendment section of the ordinance. Such a provision, for example, may be found in the Brookline, Massachusetts, zoning ordinance, which states that: ". . . districts may at any time be established in the manner provided in Article VI (AMENDMENTS)." (19)

CHAPTER III

LEGAL ASPECTS

At present the legality and the validity of floating district provisions have not been finally determined. Such provisions have been inconclusively argued, debated and contested in and out of the courts. There is, in fact, a stalemate due to conflicting court decisions. Floating district provisions have been held valid as well as invalid by the courts.

In this chapter the various decisions, of which there are at least six, and the legal issues involved are examined as the basis for discussing the legality and the validity of floating district provisions.

Decisions Invalidating the Floating District

There are at least two state supreme court decisions invalidating the floating district. These decisions, handed down by the Connecticut and the Pennsylvania Supreme Courts, and the reasoning supporting these decisions are presented as follows:

The Connecticut Decision: The Stamford Case, 1958 (20)

The Stamford, Connecticut, zoning ordinance contains four floating district provisions: (1) R-D Designed Residential District, (2) B-D Designed Business District, (3) C-D Designed Commercial District, and (4) M-D Designed Industrial District. Stamford's

zoning ordinance provides that any area of land having a minimum acreage—the minimum in each case being dependent on the type of district in which the area is located—can be converted into a designed district by the zoning board by a map amendment under the procedure prescribed for another zoning changes.*

On April 29, 1957, the Zoning Board of Stamford voted unanimously to amend the zoning map by designating a 39-acre tract of land in an R1-A Single Family Residence District as a C-D Designed Commercial District. This action by the board brought charges of invalidity from neighboring property owners. These charges were sustained by the Connecticut Supreme Court; however, four years later, 1962, the Connecticut Supreme Court validated the same 39-acre rezoning change from an R1-A to a C-D District (This latter case is discussed in detail on page 31, The Stamford Case, 1962).

Legal Issues Involved. Basically there was but a single legal issue involved in the Stamford Case. It was charged that the Zoning Board acted illegally in adopting the C-D District as the traffic conditions created by the proposed district were at variance with the standards set forth in the zoning ordinance.

Reasoning of the Court. The Court, in deciding whether the Zoning Board had erred in its decision with respect to the effect of the new District as to traffic conditions on the surrounding street system, stated that: "the proposed new 39 acre C-D district would

* For detailed information see Appendix B.

create traffic congestion."(21) Therefore, the Zoning Board, "in disregarding the . . . zoning regulations relating to traffic congestion and access to commercial property through a residential area, . . . acted illegally."(22) The zoning was set aside.

The Pennsylvania Decision: The Lower Gwynedd Case, 1960 (23)

In an amendment to its ordinance, Lower Gwynedd Township, Pennsylvania, created a new "Limited Industrial District—F-1" (floating district).^{*} Subsequently, a 100-acre tract was rezoned to the "F-1" Industrial District, in response to an application to build a factory and a sewage treatment plant. Neighboring property owners challenged the validity of the rezoning.

Legal Issue: Involved. The charge of invalidity, lodged against Lower Gwynedd's floating district provision, was made on both constitutional and statutory grounds. Specifically, Lower Gwynedd Township was charged with failing to conform to a comprehensive plan and to the legislative procedure as required by the state enabling legislation.

Reasoning of the Court. In ruling on the Lower Gwynedd Case, the Pennsylvania Supreme Court held that the rezoning was neither in accordance with a comprehensive land use plan nor was it adopted within the framework of the legislative authority as provided in the state enabling legislation. The Court expressly stated that the Lower Gwynedd Township ordinance (No. 28)^{*}, which amended the township general zoning ordinance to provide the "F-1" Limited Industrial District, was:

* For detailed information see Appendix C.

invalid as it was not enacted in accordance with a comprehensive zoning plan, as required by enabling legislation, and as it gave Township Supervisors duties beyond those outlined for them in the enabling legislation. (24)

The extent to which Lower Gwynedd Township had a comprehensive plan is unclear in the Court record. However, city representatives contended that such a plan did exist. The Court stated: "Essentially appellees argue, the plan contemplates a 'greenbelt' township predominately residential in character with a certain amount of compatible non-residential occupancy consisting of shopping centers, research and engineering centers and limited industrial uses. It also contemplates that these non-residential uses shall be strictly controlled as to setback, building area, noise, smoke, sewage disposal, etc., and that means of such control shall be vested in the supervisor through strict ordinance of general application . . . , setting up the requirements and limitations on limited industrial uses."(25)

In rebuttal to appellee's contention, the Court stated that: "By adopting this approach, the appellees have confused comprehensive planning with a comprehensive plan. The foregoing are certainly the rudiments and fundamentals which enter into the promulgation of a planned zoning scheme for the township. They are, however, only the most preliminary and basic considerations from which the ultimate decision of selective land uses are to be made."(26) The Court continued by stating that: "the adoption of a procedure whereby it is decided which areas of land will eventually be zoned 'F-1' Limited Industrial Districts on a case by case basis patently admits that at the point of enactment of ordinance 28 [floating district provision] there was no

orderly plan of particular land use for the community. Final determination under such a scheme would expressly await solicitation by individual landowners, thus making the planned land use of the community dependent upon its development. In other words, the development plan itself would become the plan, which is manifestly the antithesis of zoning 'in accordance with a comprehensive plan.'"(27)

In addressing itself to the legal issue involving the legislative procedure employed by the Township Supervisors in establishing the floating district, the Court held the procedure invalid. Specifically, the Court ruled that:

. . . the township supervisors have gone beyond their function of implementing a comprehensive plan with zoning regulations: they are to analyze on a case by case basis for rezoning purposes individual applications and accompanying technical plans for structure and development to determine their suitability and compliance with the standards they themselves established in the ordinance. (28)

Moreover, the Court insisted that: "if the legislature contemplated such a novel scheme of zoning . . . it would have said so in more clear and exact terms than we found anywhere in the enabling legislation."(29)

Decisions Validating the Floating District

Four state supreme court decisions validating the floating district have established precedents in three eastern states: New York, Connecticut and Maryland. These decisions validate a Garden Apartment District in New York, a Shopping Center District and a Garden Apartment District in Connecticut, and a Trailer Park District in Maryland.

The New York Decision: The Tarrytown Case, 1951 (30)

The Village of Tarrytown, New York, in 1947 adopted a "Residence B-B" floating district provision designed to allow the establishment of garden-apartment-multi-dwellings on parcels of ten or more acres in restricted residential zones.* In 1948, an amendment establishing such a district on the zoning map was adopted by the legislative body. Charges of invalidity were brought against Tarrytown's floating district provision and the amendment establishing the district on the zoning map.

Legal Issues Involved. Basically, the charge of invalidity involved six legal issues. They are:

- (1) that land use stability was precluded by the zoning ordinance,
- (2) that the change in zoning was "not in accordance with a comprehensive plan,"
- (3) that the rezoning constituted illegal spot zoning,
- (4) that the legislative procedure for adopting the floating district was illegal,
- (5) that the minimum acre requirements were unfair, and
- (6) that the ordinance was invalid as it established no boundaries for the new district on the zoning map.

Reasoning of the Court. The Court, in reviewing the charges of invalidity on these six different counts, ruled on each issue as follows:

First, in addressing itself to the charge that the adoption of the B-B Residence District precluded the land use stability that should be provided by the zoning ordinance, the Court held:

* For detailed information see Appendix D.

. . . while stability and regularity are undoubtedly essential to the operation of zoning plans, zoning is by no means static. Changes or changing conditions call for changed plans and persons who own property in a particular zone or use district enjoy no eternally vested right to that classification if the public interest demands otherwise. (31)

Second, the Court held that the charge that the ordinance was invalid because it was "not in accordance with a comprehensive plan" was unfounded.

The village zoning ordinance amendment providing for the establishment of garden apartment zones, when viewed in the light of the area involved and the present and reasonably foreseeable needs of the community, were enacted to promote the comprehensive zoning plan and were not only in accord with sound zoning principles but complied with every requirement of law and were accomplished in proper, careful and reasonable manner. (32)

Third, the Court held that: "the charges of illegal 'spot zoning'—leveled at the creation of a Residence B-B District and the reclassification of defendant's property—is without substance." (33)

Fourth, the Court reasoned that the legislative procedure for adopting garden apartment districts was legal and valid. Expressly approving the procedure, the Court held:

The village's zoning aim being clear, the choice of methods to accomplish it lay with the board. Two such methods were at hand. (1) It could amend the General Zoning Ordinance so as to permit garden apartments on any plot of ten acres or more in Residence A and B zones (the zones more restricted) or (2) it could amend the Ordinance so as to invite owners of ten or more acres, who wished to build garden apartments on their properties, to apply for a residence B-B classification. The board chose to adopt the latter procedure. That it called for separate legislative authorization for each project presents no obstacle or drawback. (34)

Fifth, "as to the requirement that the applicant own a plot of

at least 10 acres, we find nothing therein unfair to plaintiff or other owners of smaller parcels,"(35) so reasoned the Court. The Court continued:

Nor did the board, by following the course which it did, divest itself or the planning board of power to regulate future zoning with regard to garden apartments. The mere circumstance that an owner possesses a ten-acre plot and submits plans conforming to the physical requirements prescribed by the 1947 amendment will not entitle him, ipso facto, to a Residence B-B classification. It will still be for the board to decide, in the exercise of a reasonable discretion, that the grant of such a classification accords with the comprehensive zoning plan and benefits the village as a whole. (36)

As to the sixth issue, that the ordinance was invalid as it set no boundaries for the new district and made no changes on the zoning map, the Court held that:

. . . since the ordinance merely prescribed specifications for a new use district, there was no need for it to do either one or the other. True, until boundaries are fixed and until zoning map changes are made, no new zone actually comes into being . . . But it was not the design of the board of trustees by that enactment to bring any additional zone into being . . . , the ordinance merely provided the mechanics pursuant to which property owners might in the future apply for redistricting of their property. (37)

The New York Supreme Court rendered its decision in favor of the Village of Tarrytown. Thus, the first legal precedent sustaining the floating district was established.

A Connecticut Decision: The Stamford Case, 1962 (38)

December 28, 1959, two and one-half years after the Connecticut Supreme Court invalidated the rezoning of a 39 acre tract from R1-A Single Family Residence District to C-D Designed Commercial District, the Zoning Board of Stamford once again voted to approve the zoning

of the same 39 acre tract from an R1-A to a C-D District.* Once again the rezoning was contested.

Legal Issues Involved. The charge of invalidity includes three legal issues. They are:

- (1) that there has been no substantial change in the land uses since the 1958 ordinance amendment was invalidated,
- (2) that the change in zoning is not in accordance with a comprehensive plan, and
- (3) that the change in zoning constitutes spot zoning.

Reasoning of the Court. Upon weighing the evidence presented by both the plaintiff (neighboring residents) and the defendant (City), the Court ruled in favor of the City. Addressing itself to the charges of invalidity, the Court reasoned as follows:

The Court's decision on whether changes, which would warrant the granting of the C-D classification on the 39 acre tract in question, had taken place since the 1958 rezoning decision was declared invalid was that:

. . . while it is true that the . . . tract is still in the primitive state it was in 1951, we do not prescribe to the plaintiffs' view that the board is precluded from taking into consideration changes which have occurred in the general neighborhood, though not in the particular property involved.
(39)

The Court continued by specifying the changes that had taken place. These changes included street paving and widening, and interchange improvements.

The issues of "not in accordance with a comprehensive plan" and

* For detailed information see Appendix B.

"illegal spot zoning" were ruled, by the Court, as unfounded. In an explanation of its decision, the Court stated:

In Stamford the comprehensive plan is to be found in the master plan and the zoning regulations. After the regulations making provisions for designed districts were adopted in 1951 and amended in 1957, and the planning commission in 1956 amended the master plan to designate . . . a C-D designed commercial district, it was only necessary for the zoning board to act on the application for the change of zone to have it fit into the comprehensive plan . . . the change of zone is in accordance with the comprehensive plan, the claim of spot zoning also vanishes. (40)

In conclusion, the 1958 Stamford Case was invalidated on the grounds that the new district would create traffic congestion, which was at variance with the ordinance itself. The 1962 Case, however, was validated on the grounds that changes warranting the rezoning of the property had taken place.

A Connecticut Decision: The Bridgeport Case, 1961 (41)

The 1949 Bridgeport, Connecticut, zoning regulations contained provisions for a floating garden apartment district.*

Subsequently, the Zoning Commission rezoned a 4.16 acre tract from Residence A District to the Garden Apartment District. Thereupon, neighboring property owners appealed to the Court of Common Pleas, which held the rezoning invalid. On an appeal to the Supreme Court of Errors, the decision of the lower Court was reversed.

Legal Issues Involved. Basically, the charge of invalidity brought against the rezoning of the 4.16 acre tract from a Residence A District to a Garden Apartment District centers around three legal

* For detailed information see Appendix E.

issues. They are:

- (1) that the rezoning was not within the discretion of the zoning authority,
- (2) that the rezoning was not in accordance with a comprehensive plan, and
- (3) that the rezoning constituted illegal spot zoning.

Reasoning of the Court. The Court, in its analysis of the Bridgeport Case and the legal issues involved, reasoned as follows:

The charge that the zoning change was not within the discretion of the zoning authority was unfounded. Specifically, the Court stated:

How best the purposes of zoning can be accomplished in any municipality is primarily in the discretion of its zoning authority, and that discretion is a broad one . . . The view of the zoning commission in Bridgeport, reflected in its plan of zoning, is that a need exists in the community for apartments of the type described as garden apartments . . . (42)

Turning to the charges of "not in accordance with a comprehensive plan" and "illegal spot zoning," the Court had this to say:

Thus as already pointed out, the creation of a garden apartment zone pursuant to the zoning regulations require a change of zone. A new zone must be carved out of an existing one. The zone out of which the commission created the new garden apartment zone under consideration here is a Residence A zone. Such a change of zone is contemplated in the comprehensive plan reflected in the zoning regulations. It is not an instance of illegal spot zoning. (43)

The Maryland Decision: The Costello Case (Howard County), 1960 (44)

By a resolution adopted January 18, 1955, the County Commissioners of Howard County, Maryland, amended the County zoning regulations so as to create two additional zoning districts: Tourist Accommodation Districts--T-1 and T-2 (floating districts). The permitted land uses in the T-1 District includes motels, tourist cabins and hotels, among

other uses. The T-2 District permits the establishment of trailer parks.*

On March 17, 1959, a 92 acre tract of land was reclassified by the County Commissioners from an "R" Residential District to a "T-2" Trailer Park District. Whereupon, a neighboring farmer, claiming that the proposed trailer park would depreciate the value of his farm property, filed a bill of complaint in the Circuit Court of Howard County attacking the validity of the rezoning resolution as well as the constitutionality of the resolution which created the tourist accommodation districts.

In reviewing the proposed rezoning, the County Planning Commission, though it had approved the establishment of similar trailer park districts, recommended denial of the application. The County Commissioners, however, voted to adopt the zoning change. Their decision was then appealed to the Chancellor, who declared the rezoning invalid. An appeal, from the Chancellor, was then made to the Maryland Court of Appeals where the rezoning was held valid.

Legal Issues Involved. The charge of invalidity, to be decided by the Maryland Court of Appeals, involved three legal issues. They are as follows:

- (1) that the zoning change was invalid as no debatable evidence of either an original mistake in zoning or a substantial change in the land uses was presented,
- (2) that the resolution was unconstitutional, and

* For detailed information see Appendix F.

(3) that the rezoning constituted illegal spot zoning.

Reasoning of the Court. The charge, that the zoning change was invalid as no debatable evidence of either an original mistake in the zoning or a substantial change in the land uses, which were considered as prerequisites for zoning changes, was considered by the Court as follows:

. . . since the trailer park area is also residential in character, it appears that the reclassification is neither incompatible nor inconsistent with the remainder of the areas in the residential district. In these circumstances, the question of mistake and change are not controlling. (45)

Although the constitutionality of the resolution was raised by neither party involved, the Court insisted that the issue was squarely before it. Specifically, the Court was confronted with determining whether the County Commissioners had the authority to create new zoning classifications—such as T-1 and T-2 districts—within the original comprehensive plan of Howard County so as to provide that certain properties in other former classifications might be reclassified for tourist accommodation uses.

The Court in rendering its decision stated:

That there was such authority there is not the slightest doubt . . . Section 313 (of the Zoning Code) provides that the County Commissioners shall determine the manner in which the regulations, restrictions and district boundaries shall be established and enforced and from time to time amended, supplemented and changed. (46)

The issue that the rezoning constituted spot zoning was decided by the Court as follows:

. . . it is apparent, since there was no unzoned land in the county, that the T-1 and T-2 zones must be carved out of some land use district or districts originally zoned for other

purposes. Under these circumstances, there is no doubt that if the area selected serves a public rather than a private purpose, so as to exclude it from the category of illegal 'spot zoning' . . . then the rezoning should be upheld. (47)

Legal Implications

The approval of the Tarrytown, Stamford, Bridgeport and Howard County floating district provisions indicates acceptance of the floating district provision in the states of New York, Connecticut and Maryland. However, just as the Euclid decision (which established the legal precedent for zoning) does not validate every zoning ordinance, only the concept, the approval of these four floating district provisions obviously cannot validate every floating district provision in the states of New York, Connecticut and Maryland; however, these decisions have established useful legal precedents.

Analysis of the Pennsylvania decision reveals that the floating district per se was not invalidated. Instead, the Court ruled that the comprehensive plan and the legislative procedure requirements had not been met.

With respect to the comprehensive plan requirement, the reasoning and the decision of the Pennsylvania Supreme Court is considered as "one of the most important zoning decisions in recent years, far transcending the much debated 'floating zone' issue." (48) The Court, in making its decision, was obviously concerned with the meaning and the content of the comprehensive plan. It indicated that the plan, as the legal basis of zoning, is a "complete land use plan" (49) of "final formulation." (50)

The Pennsylvania Court, in invalidating the legislative procedure employed by the Lower Gwynedd Township Supervisors, offered a solution under which the legislative procedure used for adopting floating districts would be legal. Specifically, the Court implied that the state enabling legislation must be amended to include provisions for adopting floating districts. This requirement is not unreasonable.

Obviously then, to satisfy the Pennsylvania Court, the comprehensive plan and the state enabling legislation must provide for the floating district. Areas in which the floating district may be established must be delimited on the comprehensive land use map and the state enabling legislation must be amended to provide specific legislative authority to the local governments for adopting floating district provisions. When this has been done, it appears likely that the floating district can be legally adopted and implemented, and the Court can be satisfied.

In other states, however, just as in the states of New York, Connecticut and Maryland, the enabling legislation may be adequate for local governments to adopt floating district provisions. Therefore, amending the state enabling legislation may not be necessary. However, the adequacy of such legislation should be determined before the adoption of floating district provisions is begun.

CHAPTER IV

RECOMMENDATIONS FOR DRAFTING FLOATING DISTRICT PROVISIONS

The purpose of this chapter is to establish guidelines for drafting legal and useful floating district provisions. Such guidelines need to be followed if the floating district is to meet the objections raised by the courts and if it is to fulfill the purposes for which it is intended.

Steps to be Taken in Advance of Drafting

Floating District Provisions

Two steps that should be taken in advance of drafting legal and useful floating district provisions are the following:

- (1) determine whether the state enabling legislation authorizes local governments to establish floating districts, and
- (2) include provisions for floating districts in the comprehensive plan.

Determine the Adequacy of State Enabling Legislation

For the most part, zoning enabling legislation is broad and general in scope so as to give as much leeway as possible to municipalities and counties in drafting and implementing their individual zoning ordinances. However, in view of the decision handed down in the Lower Gwynedd Case, it is recommended that communities desiring floating district provisions determine the adequacy of their state

zoning enabling legislation authorizing local communities to establish floating districts. It may be necessary to amend the enabling legislation to include specific language for such authorization. The Pennsylvania State Supreme Court stated that the legislative procedure for adopting floating districts must be specified in "clear and exact terms." (51)

Include Provisions for Floating Districts in the Comprehensive Plan

To insure that floating districts conform to a comprehensive plan, it is recommended that floating district provisions be included both in the text and on the map of the comprehensive plan. A recommended guide may be found in the Lower Gwynedd Comprehensive Plan (post Lower Gwynedd Case, 1961), which provides for floating research and light industry districts as follows:

- (1) Community goals (policy statements) stating that "The Township Planning Commission was assisted by the Montgomery County Planning Commission in gathering facts, studying community problems, and formulating basic goals for Lower Gwynedd. As a result of these efforts, the desire for a 'Green Belt Township' has evolved and steps to effectuate this goal have been instrumented." (52)
- (2) A comprehensive plan map showing areas in which "Special Research and Light Industry" (53) (floating districts) may be located (see Figure No. 3).
- (3) An accompanying explanatory text providing that:

The areas indicated on the General Plan by the circled letters A, B, C, D are areas selected as the preferred areas for research and industrial establishments. The major consideration for the selection of these areas can be listed under the following general headings: Area Facilities, Transportation, and Relationship to Residential Areas.

Significant alteration, or plans to alter existing land use could bring a reconsideration of some of the other areas in the Township. The designation of any additional Special Areas should meet the same tests that have been applied in selecting Areas A, B, C and D.

It is important to note that the areas designated on the General Plan as Special: Research and Light Industry are not zoning districts. They are areas that are regarded as most suitable for the application of limited industrial zoning, and are desirable areas for the location of research facilities or light industry.

Regulatory ordinances have provided the framework for zoning areas for research and light industrial areas, provided the location company [the petitioner] meets well delineated specifications. These specifications are correctly highly restrictive upon the type and style of structures. As it now stands, this method of control will enable the Township to integrate the development of various land uses into a well ordered pattern. (54)

The approach taken by Lower Gwynedd Township, following the Lower Gwynedd Case, is recommended as a means of complying with the Court's demand that the floating district conform to a comprehensive plan.

Drafting Floating District Provisions

The drafting of valid and useful floating district provisions is a laborious and time-consuming task. The contents of such provisions should be stated explicitly and comprehensively.

Guidelines, recommended for drafting such provisions, include the following statements:

- I. A brief but explicit statement setting forth the purpose and the intent of the floating district provision. For

General Plan
Lower Gwynedd Township

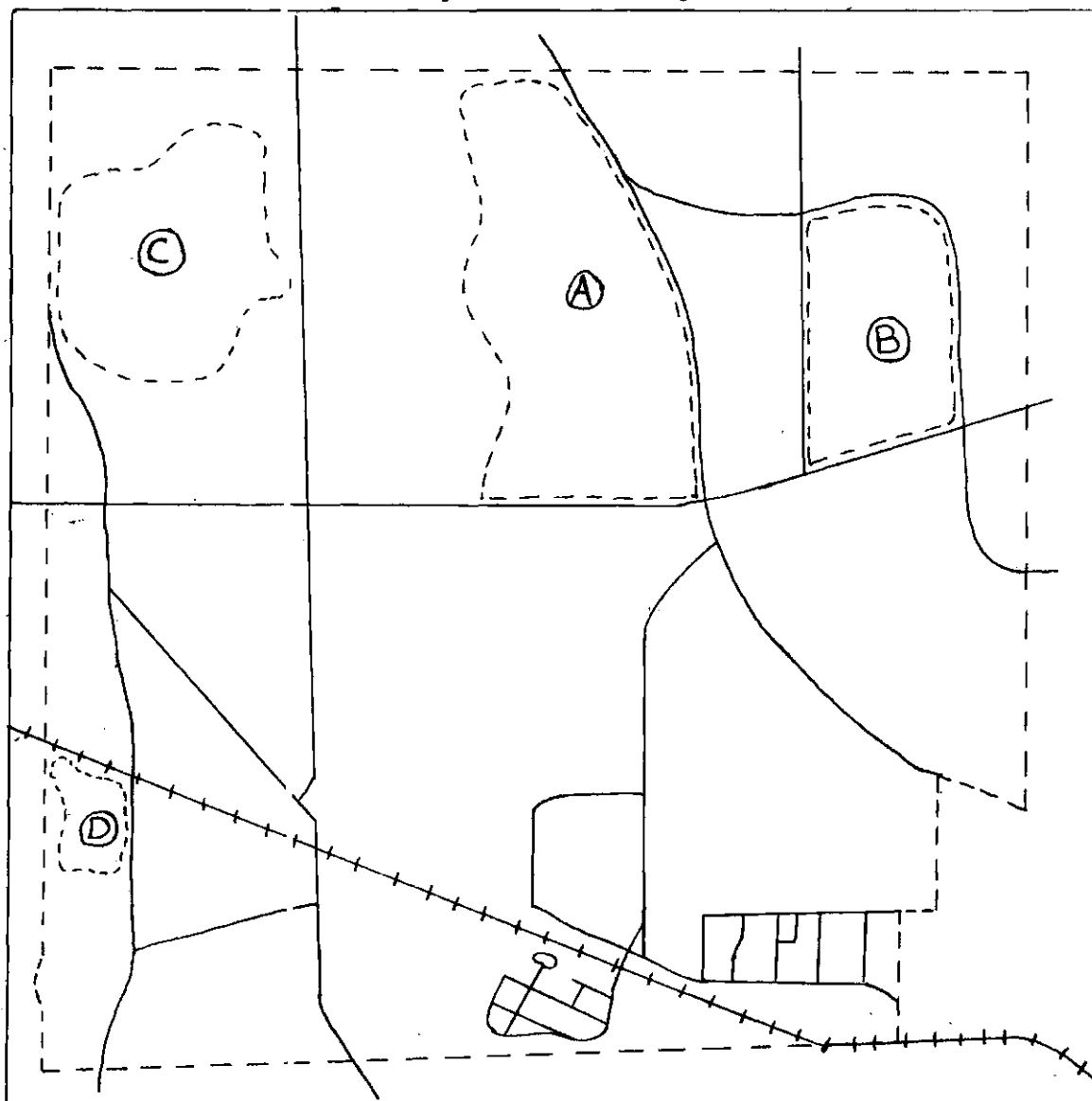


Figure No. 3. Map Showing Areas In Which Special
Research Facilities And Light Industry May Be
Located

Legend:



Research Facilities And Light Industry
(Four Areas A, B, C, D)



Streets



Railroad

example: The purpose of the _____ floating district is to permit the establishment of needed large scale developments in areas not presently zoned for such uses and to minimize any detrimental effects of these developments on existing land uses.

- II. A statement setting forth the land uses permitted in the floating district.
- III. A statement restricting the location of the floating district to areas designated on the comprehensive plan map. Designating such areas should be preceded by a thorough and comprehensive land use analysis.
- IV. A statement establishing the minimum size requirements of a floating district. The minimum size will vary with the land uses permitted in the floating district and the areas in which such districts may be located. The use of Appendix A is recommended as a guide for determining appropriate size requirements.
- V. A statement regulating the design of permitted land uses to be constructed in the floating district. This provision should include the requirement of a site plan showing the proposed development of the district. The use of the Design Provisions: Site Plan Requirements (p. 17) is recommended as a guide for drafting adequate design provisions. Following site plan review by the Planning Commission, it is recommended that the site

plan be submitted to the departments responsible for reviewing the drainage, sewerage, water and lighting systems. The plan should then be submitted to the Engineering and Traffic Departments for review of the grading, walkways, streets, driveways, traffic control devices and parking areas.

VI. A statement requiring the construction of the proposed land uses within a specified period after the floating district is established. It is recommended that this statement require:

1. Not more than six months for the commencement and three years for the completion of construction in accordance with the proposed plan of development. An extension period of not more than one year should be included.
2. That failure on the part of the petitioner to commence or complete construction as required automatically restores the original district classification.

VII. A brief statement referring the petitioner to the amendment procedure set forth in the Amendment Section of the zoning ordinance as the procedure for adopting floating districts. The procedural reference established in the Brookline, Massachusetts, zoning ordinance (presented on page 23) is recommended as a guide for drafting such a statement.

The guidelines set forth in this chapter are designed to aid communities in drafting legal and useful floating district provisions.

In conclusion, if floating district provisions are drafted to meet the objections raised by the courts and to fulfill the purposes for which they are intended, communities may use such districts as a legal and useful means of securing the establishment of large scale or group developments.

A P P E N D I X

APPENDIX A

Tabulation of Cities and States Containing
Floating District Provisions in Their Ordinances—
Land Use and District Size Requirements

Ordinances State, City	Land Use Provisions	District Size Provisions (Acres)	
		Minimum	Maximum
Alabama, Birmingham	Residential	15	
	Shopping Center	5	
	Industrial	10	
Arizona, Phoenix	Shopping Center		
Arizona, Tucson	Residential	19	
California, Berkeley	Shopping Center	1	
California, Fresno	Shopping Center	1	5
	Community Shopping Center	5	15
	Regional Shopping Center	15	50
	Industrial	40	
California, Hollister	Shopping Center	3	
	Thoroughfare Shopping District	2	
	General Commercial	4	
California, Lodi	Shopping Center	2	
California, Monte Vista	Shopping Center	5	
	Tentative Zone (Undesignated)		
California, Monterey	Shopping Center		
California, Monterey Park	Residential		
	Heavy Industrial		
California, Red Bluff	Planned Development (Undesignated)		
California, Riverside	Shopping Center	2	10
	Community Shopping Center	10	
	Service Station District	10,000 Sq. Ft.	

APPENDIX A (Continued)

Tabulation of Cities and States Containing
Floating District Provisions in Their Ordinances—
Land Use and District Size Requirements

Ordinances State, City	Land Use Provisions	District Size Provisions (Acres)	
		Minimum	Maximum
California, San Rafael	Commercial and Industrial Commercial and Residential		
California, South San Francisco	Commercial and Residential Commercial and Industrial	30	
California, Sanger	Planned Zone (Undesignated)		
California, Sunnyvale	Commercial and Residential		
California, Walnut Creek	Conditional Development (Undesignated)		
Colorado, Colorado Springs	Shopping Center	1-1/2	
	Community Shopping Center	8	
	Regional Shopping Center	8	
Connecticut, Farmington	Apartment	1	
	Business	4	
	Industrial	20	
Connecticut, New Hartford	Shopping Center	5	
	Industrial	10	
Connecticut, Portland	Shopping Center		
	Industrial		
Connecticut, Stamford	Residential	10	
	Business	20	Contiguous
	Commercial		to low density
	Industrial		res., 10 contiguous to high density, and 1 contiguous to all other districts.

APPENDIX A (Continued)

Tabulation of Cities and States Containing
Floating District Provisions in Their Ordinances—
Land Use and District Size Requirements

Ordinances State, City	Land Use Provisions	District Size Provisions (Acres)	
		Minimum	Maximum
Connecticut, Wolcott	Shopping Center Industrial		
Florida, Coral Gables	Non-Complying District (Undesignated)		
Florida, Fort Lauderdale	Shopping Center	10,000	Square Feet
Florida, Miami	Residential	5	
Georgia, Atlanta	Residential		
Hawaii, Maui County	Civic Improvement District (Undesignated)		
Illinois, Chicago	Planned Development (Undesignated)	4 for all uses except industrial	10
Indiana, Howard County	Shopping Center	10	
Indiana, Vanderburgh County	Shopping Center	10	
Massachusetts, Brookline	Parking District		
Michigan, Ann Arbor	Transition (Undesignated) Shopping Center		
Missouri, Kansas City	Apartment and Office Shopping Center Community Shopping Center Regional Shopping Center	3 1-1/2 4 7-1/2	

APPENDIX A (Continued)

Tabulation of Cities and States Containing
Floating District Provisions in Their Ordinances—
Land Use and District Size Requirements

Ordinances State, City	Land Use Provisions	District Size Provisions (Acres)	
		Minimum	Maximum
Missouri, Kansas City (Continued)	Administrative, Professional and Research	10	
	Intermediate Transition (Undesignated)	6	
	Transition (Undesignated)	6	
	Industrial	20	
Oklahoma, Broken Arrow	Shopping Center	2	
Oklahoma, Tulsa	Residential		
	Shopping Center		
South Carolina, Columbia	Shopping Center		
Tennessee, Shelby County	Shopping Center	5	
	Industrial	5	
Washington, Tacoma	Residential-Commercial		
	Medical Center		
	Freeway Commercial		
	Shopping Center	2	10
	Community Shopping Center	10	30
	Regional Shopping Center	35	
Wisconsin, Sheboygan	Shopping Center		

APPENDIX B

Stanford, Connecticut, Zoning Regulations

1959, Section 9.

SECTION 9 -- DESIGNED DISTRICTS

A -- Any parcel of land having an area of not less than 10 acres may be converted to an R-D Designed Residential District for use as a planned residential development.

1 -- The parcel, or each part thereof that is separated from every other part thereof by public streets, shall be deemed to be a lot for the purpose of these regulations.

2 -- No building shall exceed the area, or height, or contain a greater number of families than designated by the applicant.

3 -- No building contiguous to property in other districts shall have a front yard or side yard less than specified in the Schedule of Requirements for Area, Height and Bulk of Buildings; for the contiguous district, or a side yard equal to one half the height of the building; whichever is greater.

4 -- The locations of driveways, interior streets, and automobile parking areas and access therefrom to adjacent streets shall be designated.

5 -- Areas for playground and other recreational purposes, appropriate in location, nature, and size to the type of residential development and the prospective population density thereof, but in no case consisting of less than a total of 100 square feet of space for each dwelling unit served, shall be designated.

6 -- All open space on each lot in the parcel designated for future building purposes shall be deemed to be required open space on such lot and shall not thereafter be reduced or encroached upon in any manner.

7 -- In order to safeguard the purposes of the regulations provided for herein and to prevent their use for subsequent impairment of such purposes, any separate lot hereafter created from any part of the parcel shall conform in all respect to the requirements for an individual lot in the district.

B -- Areas of land whether under single ownership or not may be converted to B-D Designed Business District, C-D Designated Commercial District or M-D Designed Industrial District, under the following conditions.

1 -- The minimum area for such a B-D, C-D or M-D District shall be as follows:

a -- When contiguous to an RA-2, RA-1 or R-20 District: 20 acres exclusive of public highways passing through said area.

b -- When contiguous to an R-10, R-7-1/2 or R-5 District: 10 acres exclusive of public highways passing through said area.

c -- When contiguous to any other District: 1 acre.

2 -- The following uses are permitted in a B-D Designed Business District:

a -- Agencies, Real Estate, Insurance, Employment; Apparel Shops; Art and Antique Shops; Auto Service Stations; Bakeries, Retail; Banks; Barber, Beauty Shops; Book, Stationery Stores; Confectionery Stores; Custom Tailor, Dressmaker, Milliner; Drug Stores; Financial Institutions; Florist; Food Shops, Retail; Furniture Display; Gift Shops; Hardware, Electrical Appliances; Jewelry Stores; Laundry, Cleaning and Dyeing Agency; Laundry, Self-Service; Motels; Music Stores; Offices, Business and Professional; Opticians, Repairs; Package Liquor Stores, subject to Section 14; Photographic Studios, Camera Shops; Restaurant, Tea Room -- excludes entertainment but includes liquors subject to Section 14; Shoe Stores; Shoe Repair Shops; Sporting Goods Stores; Tailor Shops.

3 -- In connection with the uses set forth in Subsection B, 2 (a), the following standards shall apply:

a -- In general, parking facilities for patrons' cars should be provided at a ratio of 3 or more square feet of parking space for each square foot

of the aggregate area of the buildings in the project.

b -- Merchandise or products shall not be stored or displayed outside any building.

c -- All signs shall conform with the sign regulations for the C-N Neighborhood Business District under Section 13.

d -- No building shall exceed two and one-half stories in height.

e -- Lot size and yard space shall be governed by the requirements for C-N -- Neighborhood Business District in the Schedule of Requirements for Area, Height and Bulk of Buildings, of these regulations.

4 -- The following uses are permitted in a C-D Designed Commercial District or M-D Designed Industrial District:

a -- Experimental Electronic Laboratories for the research, design, development, storage, servicing and assembly of light electronic and electrical mechanical equipment.

b -- Professional Offices; Administrative Offices; Scientific Offices; Educational Offices; Statistical Offices; Executive Offices; Executive Home Offices; Engineering Offices; Sales Offices; Offices for Drafting Rooms; Experimental Research Laboratories; Experimental and Research Laboratories; Research and Development Laboratories.

c -- Supplemental and Accessory Buildings and Uses accessory to all the uses referred to in Subsection B, 4, may include storage space for equipment, supplies, materials and motor vehicles; central heating systems; air-conditioning systems; power plants; water tanks or towers; refuse disposal system; training schools for employees; cafeterias; clinics; club houses or guest lodges for the use of tenants and employees of the buildings; such retail trade and service uses as are necessary for the comfort and convenience of the tenants and employees in the buildings; assembly hall for meetings incident to the business of the principal use or for civic meetings.

5 -- In connection with the uses set forth in Subsection B, 4, the following standards shall apply:

a -- Except for the uses set forth in Subsection B, 4 (a) herein, there shall be no commercial manufacture or fabrication of products for sale except with respect to limited quantities of test or trial products or such models or prototypes as may be created and used on the premises in pursuit of the research, experimentation or development conducted in any laboratory.

b -- No more than one sign facing each street on which the lot abuts, and announcing the name of the company or companies located in the building, and a brief statement of its activities. Such sign shall not exceed 60 square feet in area, nor extend above the roof level of the building, nor shall any freestanding sign have any dimension exceeding 10 feet, nor any part thereof be more than 12 feet above ground level. Such sign shall not be illuminated by exposed tubes, bulbs or similar exposed light sources. There shall be no exterior spot lighting or other illumination of any such sign that would cause any glare observable within a residence district. Necessary direction signs, none of which shall exceed 5 square feet in area.

6 -- Parking space shall be provided on the lot to accommodate company, employee and visitor motor vehicles, with at least one car space for each three employees or occupants for which the buildings on the lot are designed. Parking areas shall be permanently improved and suitably screened with planting and shall be set back from all lot boundaries at least fifty (50) feet.

7 -- Building coverage shall not exceed 25 per cent of the lot area and no building shall be located at a distance of less than 50 feet from any street on which the lot fronts nor less than 100 feet from a property line or from the boundary line of a residence district.

8 -- No building shall exceed three and one-half stories in height.

9 -- The uses permitted in this subsection may be combined and carried on in the same building.

10 -- The following uses are permitted in an M-D -- Designed Industrial District:

a -- Any use conducted entirely within a building, consisting of the sale of goods, the providing of professional, personal or commercial services, or the manufacture, fabrication, assembling or other handling of products.

11 -- In connection with all the uses set forth in Section 9, Subsection B, the following additional standards shall apply to all uses in a B-D -- Designed Business District, C-D -- Designed Commercial District and an M-D -- Designed Industrial District:

a -- The roads, driveways, parking area and walks shall be paved and maintained in good condition with hard surface materials.

b -- The buildings therein shall be designed and built with architectural treatment in keeping with the character of surrounding area and all exterior walls above the grade line shall be finished construction.

c -- All grades to be uniform and approved by the City Engineer; Drainage and sewage disposal shall comply with the requirements of the City Engineer and the Health Department.

d -- No buildings contiguous to property in other districts shall have a front yard or side yard less than specified in the Schedule of Requirements for Area, Height and Bulk of Buildings, for the contiguous district. In no case shall a side yard measure less than one-half the height of the building. In the event that any Designed District is contiguous to more than one district, the yard requirements of the more restrictive district shall apply.

e -- The locations of driveways, interior streets, and automobile parking areas and access therefrom to adjacent streets shall be designated and approved by the Zoning Board.

f -- No use shall be permitted that will cause or result in:

- (1) dissemination of dust, smoke, observable gas or fumes, odor, noise or vibration beyond the immediate site of the building in which such use is conducted, or

- (2) hazard of fire or explosion or other physical hazard to any adjacent buildings, or
- (3) harmful discharge of waste materials, or
- (4) unusual traffic hazard or congestion due to the type of vehicles required in the use or due to the manner in which traffic enters or leaves the site of the use.

C -- The Zoning Board shall follow the same procedure in changing any property to a Designed District as that prescribed in changing to any other districts, as specified in Section 20. In any Designed District the design and location of all buildings on the lot, the height and bulk of buildings, the provision for off-street parking and loading spaces, and the use of the property shall be submitted to and subject to the approval of the Zoning Board who shall not approve same for a building permit until after a public hearing.

APPENDIX C

Lower Gwynedd Township, Pennsylvania,

Ordinance No. 28, 1959, Section 1400.

Section 1400: If the Board of Supervisor, upon application accompanied by a plan as required under Section 2104 shall have zoned an area into "F-1" Limited Industrial District, the following regulations shall apply:

Section 1901: A building or combination of buildings may be erected or used, and the lot may be used or occupied for a Limited Industrial District composed of any of the following uses and no other:

(a) Manufacturing, fabricating, assembling or processing of the following: Beverages, confection, cream, food products (exclusive of meats or fish), ceramics, clothing, plastics, electrical appliances, furniture, hardware tools, dies, patterns, scientific instruments, jewelry, time pieces, optical goods, musical instruments, toys, cosmetics, tobacco, drugs.

(b) Assembly of products of the following previously prepared materials: Wood, glass, textiles, paper.

(c) Cold storage plants, frozen food locker, laboratory for research or testing.

(d) Any use of the same general character of the above permitted uses only by special exception of the Zoning Board of Adjustment, subject to such conditions and restrictions as shall be imposed by the Zoning Board.

(e) The following uses are expressly prohibited: A dwelling, apartment, motel, hotel or other residential use excepting for living quarters for watchmen or caretakers, employed upon the premises.

Section 1403: The proposal development shall be constructed in accordance with an overall plan and shall be designed as a single architectural scheme with appropriate common landscaping and shall provide a minimum site of 25 acres.

2. All buildings shall be arranged in a group or groups of buildings, and the distance at the closest point between any buildings or groups of attached buildings shall be not less than 25-feet.

3. Adequate parking space shall be provided for all employees' and visitors' vehicles. Minimum parking of one vehicle space per every two employees or visitors shall be provided. In addition adequate ways of ingress and egress for loading areas shall be provided.

4. Parking, loading or service area used by motor vehicles shall be located entirely within the lot lines of the limited industrial district, shall be physically separated from public street by a buffer strip or other effective and suitable barrier against unchanneled motor vehicle access or egress, and shall have not more than two (2) access roads to any one public street. All parking areas shall be paved with a minimum of 4" (when compressed) Trap Rock base, permanently compacted with at least a ten (10) ton roller and a minimum of 2" Bituminous Surface Material properly compacted with a five (5) to eight (8) ton roller. All access ways and loading and service areas shall have a minimum of 6" (when compressed) Trap Rock base, and Bituminous Surface as provided above.

5. All roads for access from public roads to the parking area shall conform to Lower Gwynedd Township Highway specifications.

6. All access roads to public streets or highways shall be located not less than two hundred (200) feet from the intersection of any street lines, and shall be designed in a manner conducive to safe ingress and egress.

7. Areas for loading and unloading of delivery trucks and other vehicles, and for the servicing of shops by refuse collection, fuel and other service vehicles shall be provided and shall be adequate in size and shall be so arranged that they may be used without blocking or interfering with the use of access roads or automobile parking facilities.

8. No building or other permanent structure, nor parking lot, shall be located within two hundred (200) feet of a public street, right of way or property line. However, on any line adjacent or opposite to a residential district, no building or other structure shall be located within four hundred (400) feet of the property line and no parking lot shall be located within three hundred (300) feet of such property line.

9. The area of land occupied by buildings shall not exceed ten (10) percent of each site within the limited industrial district.

10. Along each property line which is opposite or adjacent to a residential district, the owner shall place and maintain a planting area of hedge, evergreens, shrubbery or suitable vegetation to provide appropriate screening consistent with the topography, the existent vegetation and the use of adjacent or opposite land.

11. All spaces between buildings, parking, loading, access and service areas shall be adequately illuminated at night. All lighting, including sign lighting, shall be arranged so as to protect the highway

and adjoining property from direct glare or hazardous interference of any kind. All utility lines servicing the area shall be placed underground.

12. Because of the possible public health hazard, and in order to obtain adequate fire protection, public water shall be supplied. All water requirements shall be stated in the application.

13. Raw materials, supplies, trash, rubbish and other refuse shall be stored within the buildings, in covered containers, and handled and disposed of in such a manner as not to give rise to smoke, odor or litter.

14. To effect the provisions of this Ordinance, and to carry out the conditions and requirements thereof, the Board of Supervisors may prescribe particular requirements or any further reasonable conditions deemed appropriate with respect to the suitability of the limited industrial district in the neighborhood.

Section 1404: HEIGHT REGULATIONS.

No building or other structure shall exceed forty-five (45) feet in height including signs, enclosures for cranes, chimneys, spires, towers, elevators, tanks and similar structures or projections of buildings except by special exception of the Zoning Board of Adjustment.

Section 1405: SIGNS.

1. All signs shall relate to a use located on the property where the sign is located.

2. Not more than one free standing sign, which shall not exceed one hundred (100) square feet shall be permitted for each street frontage and shall relate to the particular industry located within the district. This section, however, shall not prohibit or regulate traffic directional signs, each of which shall not exceed three (3) square feet in area.

Section 1406: APPLICATION TO THE BOARD OF SUPERVISORS, REVIEW OF THE PLANNING COMMISSION, APPROVAL OR DISAPPROVAL BY THE BOARD OF SUPERVISORS.

Plans for any 'F-1' Limited Industrial Area shall be submitted to the Board of Supervisors prior to the issuances of any zoning permit or issuance of a certificate of conformity. If portions of the project are to be completed in successive stages, a less detailed sketch or lay-out of the area not scheduled for immediate development may be submitted, provided that as further development occurs a plan showing all of the required details shall then be submitted prior to construction of any portion not previously approved in detail. The following information shall be shown on all plans:

1. Plot plan of the lot showing the location of all present or proposed buildings, sidewalks and other areas to be devoted to pedestrian use, drives, parking lots, loading and unloading areas and other constructional features on the lot; and all buildings, streets, alleys, highways, streams and other topographical features of the lot and the area three hundred (300) feet beyond any lot line.

2. Architectural plans for any proposed buildings.

3. The location, dimensions and arrangements of areas to be devoted to planting.

4. A description of the industrial uses proposed, including the approximate number of employees, and expected number of customers and business invitees in sufficient details to indicate the effects of those operations on producing traffic congestion, noise, glare, air pollution, water pollution, fire hazards or safety hazards.

5. Engineering and architectural plans for the treatment and disposal of sewage which comply with the then existing provisions of the sanitary ordinance of Lower Gwynedd Township.

6. Any other data or evidence that the Supervisors may require.

7. The Supervisors shall refer the application and plans to the Planning Commission of Lower Gwynedd Township who shall review the same and return the plans to the Supervisors accompanied by their recommendation within forty-five (45) days of reference to it by the Supervisors.

8. Upon receipt of plans for any "F-1" Limited Industrial District, accompanied by the recommendation of the Planning Commission, the Board of Supervisors shall undertake the necessary steps for a public hearing as provided for in Article XII hereof. After said public hearing, the Supervisors may reject, or approve and rezone the relevant area, whereupon the Zoning Officer of Lower Gwynedd Township shall be notified of the Supervisors' action and any special conditions agreed upon by the applicant.

Section 1407: TIME LIMIT AND CONSTRUCTION PERMIT.

Every such application when approved by the Board of Supervisors shall constitute an agreement by the applicant or his transferee, that such installation shall be completed and maintained as shown on the plan submitted to the Township. If, within eighteen (18) months of the rezoning of an area to "F-1" Limited Industrial District, or the issuance of a permit for an area previously zoned "F-1" Limited Industrial District, substantial construction of the proposed buildings is not undertaken by the applicant or his transferee in accordance with the final plans submitted to the Board of Supervisors, said area

shall revert to its former zoning classification.

Section 2104: Application for amendment to the Zoning Map of Lower Gwynedd Township to create an "F-1" Limited Industrial District as provided for in Section 1400 etc., shall be accompanied by a plan or plans for the integrated development of the tract of land to be rezoned, which plan or plans shall be in the form and contain the information required below:

(a) The scale shall not be less than one (1") inch to fifty (50) feet with contours at five (5) foot vertical intervals showing pertinent topographical features. The aforesaid scale of one (1") inch to fifty (50) feet may be reduced where such scale would produce a plan with a dimension in excess of six (6) feet.

(b) The location, use, plan, dimension and height of each building or other structure and total floor area to be constructed.

(c) The location, dimensions and arrangements of all open spaces, yards, access ways, entrances, exits, off street parking facilities, loading and unloading facilities, pedestrian ways, location and width of roads, streets and sidewalks.

(d) The capacity of all areas to be used for automobile access, parking, loading and unloading.

(e) Location, dimensions and arrangement of all areas devoted to planting, lawns, trees or similar purposes, with a description, including the height and density of all trees, or planting to be used for screening.

(f) Location and description of all facilities to be used for sewage disposal, water supply, storm water drainage and all utilities.

(g) Each application for an "F-1" Limited Industrial District shall be accompanied by a detailed description of the process to be used by the industry and a complete description of the raw materials utilized and the product resulting from such process.

APPENDIX D

Village of Tarrytown, New York, Zoning Ordinance,

April 14, 1947, Amendment.

[Its text, to the extent relevant]

Section II. A new district or class of zone is hereby created and shall be called "Residence B-B."

Section III. The boundaries of said newly created district or class of zone will be fixed by amendment of the official village building zone map, at such times in the future as such district or class of zone is applied, to properties in this village.

Section IV. The following uses are permitted in said residence B-B Zone:

1. Any use permitted in sections 5 and 6 of the Village of Tarrytown Zoning Ordinance, dated June 12, 1944, which uses are those permitted in Residence A or Residence B Districts.
2. Buildings for multiple occupancy of not in excess of fifteen families. This restriction of fifteen families shall apply to row houses as well as apartments.

Section V. In a Residence B-B District or Zone, the following regulations must be observed:

1. A front yard shall be provided, which will have a mean depth of not less than forty feet.
2. A rear yard shall not be less than thirty feet.
3. A side yard shall not be less than thirty feet and the distance between buildings, if separate buildings occupy the same lot, shall not be less than fifty feet.
4. Multiple dwellings under this section shall not exceed three stories in height.
5. For the purposes of this ordinance, a front yard, a side yard or a rear yard will be as defined in the Village of Tarrytown

Zoning Ordinance, dated June 12, 1944.

6. All buildings on any one parcel in this district or zone, including accessory buildings, shall not occupy in excess of fifteen per cent of the ground area of the entire land area.
7. Garages shall be housed either in the basement or in accessory buildings.
8. Property in this village can be placed in said Residence B-B Zone by a proper amendment of the official Village map. Such amendment will require prior approval of the Village Planning Board. In case such approval is withheld, the Board or Trustees may give such approval by an appropriate resolution.
9. No property of a lesser acreage than ten can be zoned for residence 1-B.

Section VII. All ordinances, or parts of ordinances, previously adopted and inconsistent herewith, are hereby repealed.

APPENDIX E

Bridgeport, Connecticut, Zoning Regulations, 1960,

Chapter 6.

Section 1. General Statement. Subject to all other applicable provisions and limitations contained in these regulations, all property located in a Garden Apartment Zone shall conform to the regulations contained in this chapter.

Section 2. Permitted Uses. No building or premises shall be used, and no building shall be erected or structurally altered which is arranged, intended or designated to be used, except for one or more of the following purposes:

(a) Any use permitted a Residence A Zone and, if permitted as a special exception by the Zoning Board of Appeals, any use permitted in a Residence A Zone as a special exception, all such uses to accord in all respects with Residence A Zone requirements; or

(b) A garden apartment development in accordance with the provisions and limitations contained in this chapter.

Section 3. Garden Apartment Development, Defined. A garden apartment development for the purpose of this chapter is defined to mean one or more residence buildings, each containing not less than four separate apartments, occupying a limited portion of the land and providing substantial open spaces for automobile parking and appropriate landscaping.

Section 4. Height. No building in any garden apartment development shall exceed 2-1/2 stories in height.

Section 5. Yard Requirements. The minimum front yard, side yard and rear yard requirements which shall be observed in any garden apartment development shall be the requirements applicable to property located in a Residence A Zone, subject, however, to such greater yard requirements as may be imposed by the Zoning Commission under Section 10 of this chapter.

Section 6. Roof Pitch. Each building shall have a pitched roof of a pitch of not less than 6 inches to the running foot.

Section 7. Area Requirements. The apartment buildings making up any garden apartment development shall not occupy more than 25 per cent of the land upon which such development exists, the balance of the land to be left open and to be appropriately landscaped except as portions of the land may be devoted to the parking or housing of automobiles of residents of such garden apartment development or to such other necessary purposes as the Zoning Commission may approve under Section 10 of this chapter.

Section 8. Automobile Areas. There shall be provided and maintained, as a part of such development and upon the land on which it is located, an appropriate paved area for the parking or housing of automobiles of the residents thereof which shall be not less than 150 square feet, exclusive of the driveways thereto, for each apartment within such development, the location and layout of such area to be subject to the approval of the Zoning Commission under Section 10 of this chapter.

Section 9. Declaration of Necessity. In the adoption of this regulation, it is contemplated that Garden Apartment Zones will, if established under this chapter, be located in the better residential areas of the City, and it is recognized that such apartment development must be carefully supervised and controlled to prevent the same from having a detrimental effect and a retarding influence upon surrounding residential properties. It is, in consequence, hereby declared as a matter of legislative determination that it is necessary, in the promotion of the public health, safety and welfare and in the accomplishment of the purposes set forth in Chapter 1 of these regulations, that the limitations contained in this chapter be adopted and that the Zoning Commission retain the control over the development of land in Garden Apartment Zones which is provided in the following section.

Section 10. Conditions for Establishment. No land shall be placed in a Garden Apartment Zone except upon the petition of the owner or a proposed developer thereof. If the petition is filed by a proposed developer, the consent of the owner to the filing of the same shall appear upon the petition over his signature. No such petition shall be entertained by the Zoning Commission unless it shall be accompanied by a detailed plan of the proposed garden apartment development which shall include a layout of the proposed development on the land, general plans and specifications for the buildings, and a detailed plan for the landscaping of the land upon which such development shall be located. If the Zoning Commission shall grant said petition in whole or in part, no garden apartment development shall be erected upon the land so zoned unless it accords with the minimum requirements of this chapter and with the layout, plans and specifications and the plan for the landscaping thereof which shall have been presented to and approved by the Zoning Commission at its hearing of said petition. The Zoning Commission, in placing any property in a Garden Apartment Zone, may

impose reasonable conditions and limitations, which shall be observed in the garden apartment development thereof, on the location of parking areas or garage spaces, on the front, side and rear yards to be provided in excess of the requirements of Section 5 of this chapter, and on the distance by which buildings shall be separated from each other. When any plan and layout of any garden apartment development shall have been approved by the Zoning Commission, it shall not thereafter be altered or changed except with its approval after a public hearing thereon.

Section 11. Approval of City Planning Commission. If such garden apartment development requires the construction of roads, sewers or other public improvements, the Zoning Commission shall provide that such zone change shall not become effective until the City Planning Commission, upon application of the owner or developer thereof, shall have approved of said program of public improvements and shall have received on behalf of the City, such security as it may require to assure their completion.

Section 12. Use Limitations. Except as any property in a Garden Apartment Zone shall be developed and used in accordance with the requirements of this chapter, no premises shall be used, and no building shall be erected, altered or used, except in conformance with the Residence A Zone requirements of these regulations.

APPENDIX F

Howard County, Maryland, Zoning Regulations,

1955, Amendment, Sections 9 and 10.

Section 9—T-1 Districts

90.1 Uses Permitted in the T-1 Districts

In the T-1 Districts, only the following uses of land or buildings shall be permitted.

9.011 Uses permitted in the R-90 to R-20 Districts.

9.012 Motels and tourist cabins and hotels, provided that the design, layout and ingress roads shall be approved by the Planning Commission and provided further that written approval of the Health Officer of Howard County, containing necessary requirements for maintaining health standards shall be filed with the Buildings Engineer before the permit is issued. No permit shall be issued by the Buildings Engineer until the application conforms with the requirements of the Planning Commission and the County Health Officer.

9.013 Restaurant. As an accessory use in connection only with those uses permitted under Section 9.012 of this Section.

9.014 Automobile Service Station. As an accessory use in connection only with the use permitted under Section 9.013.

9.02 ACCESSORY USES PERMITTED IN T-1 DISTRICTS

Any use normally and customarily incident to any use permitted in the T-1 District, shall be permitted as an accessory use provided the area provisions of Section 9.04 of this Section shall be complied with.

9.03 HEIGHT REGULATIONS IN T-1 DISTRICTS

Same as in B-1 Districts — Section 11.03.

9.04 AREA REGULATIONS

9.041 For any use permitted in the R-90 to R-20 Districts, the area regulations shall be the same as the area regulations for the R-90 to R-20 Districts.

- 9.042 For any other use permitted in the T-1 District and not permitted in the R-90 to R-20 Districts, the following area regulations shall apply.

9.0411 LOT SIZE

Minimum lot area shall be three (3) acres.

9.0412 FRONT YARD

A front yard not less than 50 feet in depth, shall be provided for each building hereafter erected or extended. Same may be used as parking area.

9.0413 SIDE YARDS

No building hereafter erected or extended shall be within 10 ft. of any side lot line.

9.0414 REAR YARD

No building hereafter erected or extended shall be within 25 feet of any rear lot line.

9.0415 COVERAGE

Buildings, with their accessory buildings, hereafter erected or extended shall not be permitted to cover more than 50 percent of the lot.

SECTION 10 — T-2 DISTRICTS

10.01 USES PERMITTED IN THE T-2 DISTRICTS

10.011 Uses permitted in the R-90 to R-20 Districts.

10.012 Trailer coach park provided that the design, layout and ingress roads shall be approved by the Planning Commission and provided further that written approval of the Health Officer of Howard County, containing necessary requirements for maintaining health standards shall be filed with the Buildings Engineer before the permit is issued. No permit shall be issued by the Buildings Engineer until the application conforms with the requirements of the Planning Commission and the County Health Officer.

10.02 ACCESSORY USES PERMITTED IN T-2 DISTRICTS.

Any use normally and customarily incident to any use permitted in the T-2 District, shall be permitted as an accessory use provided the area provisions of Section 10.04 shall be complied with.

10.03 HEIGHT REGULATIONS IN T-2 DISTRICTS

Same as B-1 District — Section 11.03.

10.04 AREA REGULATIONS

10.041 For any use permitted in the R-90 to R-20 Districts, the area regulations shall be the same as the area regulations for such use in the R-90 to R-20 Districts.

10.042 For any other use permitted in the T-2 District and not permitted in the R-90 to R-20 Districts, the following area regulations shall apply:

10.0421 LOT SIZE

Minimum lot area of trailer park shall be three (3) acres. Minimum area of each trailer coach space shall be 2,000 sq. ft.

10.0422 FRONT YARD

No building shall be erected or trailer coach parked within 50 ft. of the front street.

10.0423 SIDE YARDS

No trailer coach shall be parked within 20 feet of any side lot line or any other trailer coach.

10.0424 REAR YARD

No trailer coach shall be parked within 25 feet of any rear lot line.

10.0425 COVERAGE

Buildings, with their accessory buildings, and trailer coach spaces hereafter erected or extended, shall not be permitted to cover more than 40 percent of the lot.

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